

REMARKS

By this Amendment, Applicants cancel claim 18, without prejudice or disclaimer of the subject matter therein, and amend claims 19, 20 and 57. With claims 1, 21, 29 and 31 having been previously canceled, claims 2-17, 19, 20, 22-28, 30 and 32-68 are pending in this application.

In the Office Action of November 19, 2004,¹ claims 2-17, 22-28, 30, 32-56 and 58-68 were allowed. Claim 57 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; claims 18-20 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,496,460 to *Haarstad et al.* (“*Haarstad*”); and claims 18 and 19 were rejected under were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,968,371 to *Verdegan et al.* (“*Verdegan*”). Applicants acknowledge with appreciation the indication of allowable subject matter and address the rejections below.

Rejection of claim 57 under 35 U.S.C. § 112, second paragraph

The Examiner rejected claim 57 under § 112, second paragraph, because the recitation “the dynamometer test” lacks antecedent basis (Office Action “OA” at 2). Applicants have amended claim 57 in this paper to recite, *inter alia*, “operating the engine in a dynamometer test during the measuring and halting the dynamometer test based on the characteristic of cleanliness of the engine fluid.” Because claim 57, as currently presented, is fully compliant with § 112, second paragraph, and depends upon allowed claim 9, Applicants request withdrawal of the § 112 rejection and the timely allowance of claim 57.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Section 102(b) rejection of claims 18-20 based on *Haarstad*

The rejection of independent claim 18 as anticipated by *Haarstad* is rendered moot by the cancellation of that claim.² Moreover, each of claims 19 and 20, as currently presented, depends directly or indirectly upon allowed claim 12, which is not anticipated by the applied art. Claims 19 and 20 should be allowed at least because of such dependency. Accordingly, Applicants request withdrawal of the § 102(b) rejection and the timely allowance of claims 19 and 20.

Section 102(b) rejection of claims 18 and 19 based on *Verdegan*

The rejection of claim 18 as anticipated by *Verdegan* is rendered moot by the cancellation of that claim.³ Claim 19 depends upon claim 12, which is distinguished from the applied art and allowed. Claim 19 is distinguished from the applied art, for at least the same reasons that claim 12 is distinguished. Applicants thus request withdrawal of the § 102(b) rejection of claim 19 and the timely allowance of that claim.

² Although claim 18 has been canceled, Applicants do not acquiesce to the Examiner's allegation that claim 18 is anticipated by *Haarstad*.

³ Applicants do not acquiesce to the Examiner's allegation that claim 18 is anticipated by *Verdegan*.

Conclusion


Because all of the outstanding rejections should be withdrawn and all of the pending claims are allowable, this application is, *prima facie*, in condition for allowance. Applicants therefore request the timely issuance of a Notice of Allowance.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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